

FORTY-SEVENTH DAY
(Thursday, April 3, 1975)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Ogg.

A quorum was announced present.

The Reverend Otha R. Clary, Hyde Park Christian Church, Austin, Texas, offered the invocation as follows:

O God, Our Father, Thou who art the Maker, Ruler, and Sustainer of men, states, and nations; we would ask Thy blessings upon the members of this Senate - individually and collectively. Grant that they may have the strength, honor, and charity to do their work, seeking not only the good of party or faction, but of all citizens.

O God, give them the wisdom and the strength to serve and lead our State into achieving better laws, and a more abundant opportunity for all. May each one be led by Thy Spirit to do justice, to love mercy, and to conduct themselves in charity, humility, and pacific temper of mind and heart. May the welfare of the people of our State be, always, above political preferment or individual self-seeking. May they be able to resolve individual differences, so that progress may be achieved in dealing with vital issues. Grant that this Body may use calm judgment in its considerations, and help it to develop and adopt progressive measures that will benefit all the people of Texas.

Bless the members this day, and continue to bless them, and the members of their families, who must share in this responsibility; as they devote their time and talents to the affairs of the State of Texas.

Through Jesus Christ, Our Lord. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Ogg was granted leave of absence for today on account of important business on motion of Senator Williams.

MESSAGE FROM THE HOUSE

Hall of the House of Representatives
Austin, Texas, April 3, 1975

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 58**. House Conferees: Jones of Harris, Chairman, Spurlock, Maloney, Tanner, Coleman.

All necessary rules suspended, and the House concurred in Senate amendments to **H.B. 424** by a non-record vote.

S.B. 41, A bill to be entitled An Act providing standards for state administrative agency practice and procedures; providing for review of state agency proceedings; repealing Chapter 274, Acts of the 57th Legislature, Regular Session, 1961, as amended, (Article 6252-13, Vernon's Texas Civil Statutes), and other laws in conflict; and declaring an emergency. (With amendments)

S.B. 28, A bill to be entitled An Act relating to non-profit legal service corporations, issuance of contracts for prepaid legal services, amending the Insurance Code and declaring an emergency. (With amendments)

Respectfully submitted,
DOROTHY HALLMAN
Chief Clerk, House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Mauzy submitted the following report for the Committee on Education:

S.B. 545

Senator Sherman submitted the following reports for the Committee on Natural Resources:

S.B. 787
S.B. 154 (Amended)
S.B. 391
S.B. 392 (Amended)
S.B. 393
S.B. 633

Senator Moore submitted the following reports for the Committee on State Affairs:

S.B. 752
C.S.S.B. 26 (Read first time)
S.B. 401
S.B. 869 (Amended)
C.S.S.B. 27 (Read first time)

Senator Snelson submitted the following report for the Committee on Intergovernmental Relations.

S.B. 699 (Amended)
H.B. 222

H.B. 353
H.B. 865
H.B. 513
S.B. 878
S.B. 822
S.B. 690
C.S.S.B. 553 (Read first time)
S.B. 655
S.B. 751 (Amended)

Senator Schwartz offered the following reports for the Committee on Jurisprudence:

S.B. 411
C.S.S.B. 219 (Read first time)
C.S.S.B. 250 (Read first time)
H.B. 511 (Amended)

BILLS AND RESOLUTION SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolution:

H.B. 717
H.B. 57
H.B. 146
H.C.R. 106
H.B. 407

SENATE BILL AND RESOLUTIONS ON FIRST READING

By unanimous consent, the following bill and resolutions were introduced, read first time and referred to the Committee indicated:

By Senator Jones:

S.B. 1020, A bill to be entitled An Act relating to benefits, claims for benefits, and contributions under the Texas Unemployment Compensation Act; amending Subsection (b) of Section 3, Subsection (b) of Section 6, and Subdivision (2)(B), Subsection (c) of Section 7, Texas Unemployment Compensation Act, as amended (Article 5221b-1, et seq., Vernon's Texas Civil Statutes); and declaring an emergency.
To Committee on Human Resources.

By Senator Lombardino:

S.J.R. 62, Proposing an amendment to Article XVI, Section 21, of the Texas Constitution to require that certain goods purchased by the state be manufactured or produced in the United States.

To Committee on State Affairs.

By Senators Santiesteban, Longoria, Traeger and McKinnon:

S.R. 377, Creating a Special Committee of the Senate to investigate alleged undue hindrance of trade and tourism by United States Border Patrol and by U.S. Bureau of Customs.

To Committee on Administration.

HOUSE BILL ON FIRST READING

The following bill received from the House, was read the first time and referred to the Committee indicated:

H.B. 1188, To Committee on Jurisprudence.

PRESENTATION OF TEMPORARY PARLIAMENTARIAN

The President introduced the Temporary Parliamentarian, Nancy Moody, to the Senate.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were referred to the Committee on State Affairs, Sub-Committee on Nominations:

Austin, Texas
April 2, 1975

TO THE SENATE OF THE SIXTY-FOURTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be Members of the State Board of Vocational Nurse Examiners: For a six-year term to expire September 6, 1979: Dr. Howell R. Gaddy, Jr. of Georgetown, Williamson County is replacing Dr. Robert W. Shirey of Hillsboro, Hill County who resigned; Mrs. Winnie O. Warhol of Marlin, Falls County is replacing Mrs. Melba Jo Thomas of Naples, Morris County whose term expired.

TO THE SENATE OF THE SIXTY-FOURTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

To be a Member of the State Board of Examiners of Psychologists: For a six-year term to expire October 31, 1975: Dr. James Ray Hays of Bellaire, Harris County is replacing Dr. Carl F. Hereford of Austin, Travis County who resigned.

TO THE SENATE OF THE SIXTY-FOURTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

To be Branch Pilot for Port Aransas Bar, Corpus Christi Bay and Tributaries: For a two-year term to expire March 10, 1977: Mr. W. C. Ligon of Portland, San Patricio County is being appointed to a new position.

TO THE SENATE OF THE SIXTY-FOURTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be Members of the Crime and Narcotics Advisory Commission: For a two-year term to expire January 31, 1977: Mr. Kenneth Decker of Austin, Travis County is being reappointed; Dr. Raymond A. Gardea of El Paso, El Paso County is replacing Dr. Bobby G. Smith of Arlington, Tarrant County whose term expired.

Respectfully submitted,
DOLPH BRISCOE
Governor of Texas

COMMITTEE SUBSTITUTE HOUSE BILL 679 ON THIRD READING

The President laid before the Senate on its third reading and final passage:

C.S.H.B. 679, A bill to be entitled An Act requiring certain political parties to hold presidential primary elections and prescribing the method for selecting delegates to national nominating conventions of those parties; prescribing a criminal penalty; amending the Texas Election Code by adding Section 235a; and declaring an emergency.

The bill was read third time and passed by the following vote: Yeas 23, Nays 7.

Yeas: Adams, Aikin, Clower, Creighton, Farabee, Gammage, Hance, Harrington, Jones, Kothmann, Lombardino, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Nays: Andujar, Braecklein, Brooks, Doggett, Harris, Mauzy and Patman.

Absent-excused: Ogg.

HOUSE BILL 485 ON SECOND READING

The President laid before the Senate on its second reading and passage to third reading:

H.B. 485, A bill to be entitled An Act amending the definition of "military duty" in Paragraph (16) of Subsection (a) of Section 3.02 of the Texas Education Code; amending Section 3.23 of the Texas Education Code to permit members to purchase creditable service in the Teacher Retirement System of Texas for certain military duty rendered before becoming a member of that system, removing the privilege of purchasing creditable service for certain nonmilitary service and providing for the payment of a fee when purchasing service credit for military duty; declaring an emergency, declaring effective dates for the provisions of this Act and providing for severability of the Act.

The bill was read second time and was passed to third reading.

HOUSE BILL 485 ON THIRD READING

Senator Snelson moved that Senate Rule 68 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 485** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Ogg.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and passed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Ogg.

COMMITTEE SUBSTITUTE SENATE BILL 761 ON SECOND READING

The President laid before the Senate as unfinished business C.S.S.B. 761 with an amendment by Senator Clower pending.

Question - Shall the amendment be adopted?

On motion of Senator Clower and by unanimous consent, the amendment was withdrawn.

Senator Clower offered the following amendment to the bill:

Amend S.B. 761 by striking Section 6 and substituting in lieu thereof the following:

"Sec. 6. Chapter 615, Acts of the 61st Legislature, Regular Session, 1969 (Article 4413(34), Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. SHORT TITLE. This Act may be cited as the Public [Texas Mass] Transportation Bureau [Commission] Act.

"Section 2. PUBLIC TRANSPORTATION BUREAU [CREATION AND MEMBERSHIP OF COMMISSION]. There is created a Public [Texas Mass] Transportation Bureau of the Texas Highways and Public Transportation Department [Commission to consist of six members. Its principal office is located in the City of Austin].

[Sec. 3. APPOINTMENT AND TERMS OF OFFICE. (a) The governor, with the advice and consent of the Senate, shall appoint the six commission members for staggered terms of six years.

(b) Vacancies on the commission are filled in the same manner as original appointments, but only for the unexpired portion of the term.

Sec. 4. QUALIFICATIONS OF COMMISSION MEMBERS. (a) The governor shall appoint as a member of the commission one person who resides in the Gulf Coast area of the state; one who resides in the Trans Pecos area; one who resides in the Central Texas area; one who resides in the Northeast area; one who resides in the Panhandle South Plains area; and one from the state at large.

(b) To be qualified for appointment, a person must be

~~(1) a citizen of the state;~~
~~(2) of voting age;~~
~~(3) engaged in or have an interest in public mass transportation, but shall not be an official or employee of any local government, state or federal department or agency.~~

~~(c) No more than two members of the commission may be employed by, or own an interest in, a public mass transportation system or a business manufacturing public mass transportation media, or their components.~~

~~Sec. 5. BOARD MEETINGS AND OFFICERS. (a) The commission shall hold a regular annual meeting. It shall hold a special meeting at the call of the chairman or at the request of four commission members.~~

~~(b) A majority of the commission is a quorum for conducting business and may act for the commission.~~

~~(c) The commission shall elect its officers, who shall serve for terms of two years.~~

~~Sec. 6. ASSISTANTS. The commission may employ as many assistants as it considers necessary to carry out the provisions of this Act.~~

~~Sec. 7. COMPENSATION. (a) Members of the commission are entitled to compensation of \$25 a day for each day spent in attending the business of the commission and for going to and returning from attending to that business. They are also entitled to reimbursement for their actual expenses incurred in attending to the business of the commission.~~

~~(b) The commission shall fix the amount of compensation and expense reimbursement for its assistants.]~~

~~"Section 3 [8]. DUTIES OF BUREAU [COMMISSION]. (a) The bureau [commission] shall~~

~~"(1) encourage, foster, and assist in the development of public mass transportation, both intracity and intercity, in this state; and~~

~~"(2) encourage the establishment of rapid transit and other transportation media.~~

~~"(b) The bureau [commission] may not promulgate rules or regulations which impose a greater restriction upon public mass transportation than now exists, or which impose economic controls.~~

~~"(c) The bureau [commission] may recommend necessary legislation to advance the interests of the state in public mass transportation and may represent the state in mass transportation matters before federal and state agencies.~~

~~"(d) The bureau [commission] may render financial assistance in the planning of public mass transportation systems out of appropriations made by the Legislature for that purpose.~~

~~"(e) The bureau [commission] may enter into any contracts necessary to exercise the powers granted by this Act, but may not enter into any contract:~~

~~"(1) obligating the state to pay money which has not been appropriated to the bureau [commission]; or~~

~~"(2) binding the state in a manner not authorized by this Act.~~

~~"(f) The bureau [commission] may not issue certificates of convenience and necessity.~~

~~"(g) The bureau [commission] shall conduct hearings and make investigations it considers necessary to determine the location, type of construction, and cost to the state or its political subdivisions of public mass transportation systems owned, operated, or directly financed in whole or part by the state. It shall also assist any political subdivision of the state in procuring aid offered by the federal government for the purpose of establishing and maintaining public mass transportation systems.~~

~~"(h) The bureau [commission] may accept and receipt for federal and other grants either public or private, for [the state or] any political subdivision of this state [thereof,] when authorized by the [state or] subdivision, for the acquisition, construction, improvement, maintenance, study, or operation of public mass~~

transportation facilities. The bureau may also accept and receipt for federal and other grants, either public or private, on behalf of the State of Texas, for the acquisition, construction, improvement, maintenance, study, or operation of public mass transportation facilities. Grants may be accepted under this subsection whether the work is to be done by the state, a municipality, or any other political subdivision of the state aided by grants from the United States upon terms and conditions now or later prescribed by the laws of the United States. The state or the governing body of a municipality or other political subdivision may designate the bureau ~~[commission]~~ as its agent to receive money under this section the bureau ~~[commission]~~ acting as agent may contract with the federal government for the acquisition, construction, improvement, maintenance, or operation of public mass transportation facilities.

"(i) All contracts for the acquisition, construction, improvement, maintenance, or operation of public mass transportation facilities made by the bureau ~~[commission]~~ acting as agent under Subsection (h) of this section must conform to state law.

~~[Sec. 9. DIRECTOR OF MASS TRANSPORTATION. (a) The commission shall appoint a director of mass transportation, who serves at the pleasure of the commission.~~

~~(b) The director is entitled to receive the salary provided in the General Appropriations Act.]~~

"Section 4 [40]. DUTIES AND POWERS OF DIRECTOR. (a) The director of public transportation selected by the Texas Highways and Public Transportation Commission shall develop and maintain a comprehensive master plan for public mass transportation development in the state and shall correlate the master plan with plans of the Texas Railroad Commission and other agencies or departments concerned with public transportation.

"(b) He shall serve as the bureau's ~~[commission's]~~ executive officer and under the ~~[its]~~ supervision of the Texas Highways and Public Transportation Commission ~~[shall]~~ administer the provisions of this Act. ~~[He shall attend all meetings of the commission, but may not vote.]~~ He shall, subject to the approval of the commission, hire as many experts, field and office assistants, clerks, and other employees as may be required for the proper discharge of the bureau's ~~[commission's]~~ duties. The director is responsible to the commission for the preparation of reports and the collection and dissemination of data relating to public mass transportation. At the direction of the commission, he shall ~~[together with the chairman of the commission,]~~ execute all contracts for the bureau ~~[commission]~~ which are authorized by this Act.

~~[(c) The commission may, by written order filed in its office, delegate to the director any of its powers or duties and the director shall then exercise the powers and perform the duties in the commission's name.]~~

The amendment was read.

On motion of Senator McKnight, the amendment was tabled.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the motion to table the amendment.

Senator Clower for Senator Ogg offered the following amendment to the bill:

Amend C.S.S.B. 761 by striking Section 2 and renumbering the following Sections.

The amendment was read.

On motion of Senator McKnight the amendment was tabled.

On motion of Senator McKnight and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

Question - Shall C.S.S.B. 761 as amended be passed to engrossment?

EXECUTIVE SESSION

The President announced that the time had arrived for an Executive Session of the Senate. (Senator McKinnon having given notice on yesterday.)

Senator Mauzy moved that Senate Rule 41 be suspended in order to consider nominations scheduled for today in open session.

The motion was lost by the following vote: Yeas 12, Nays 18.

Yeas: Aikin, Braecklein, Brooks, Clower, Doggett, Gammage, Harrington, Longoria, Mauzy, Patman, Schwartz and Sherman.

Nays: Adams, Andujar, Creighton, Farabee, Hance, Harris, Jones, Kothmann, Lombardino, McKinnon, McKnight, Meier, Mengden, Moore, Santiesteban, Snelson, Traeger and Williams.

Absent-excused: Ogg.

Accordingly, the President at 11:00 o'clock a.m. directed all those not entitled to attend the Executive Session of the Senate to retire from the Senate Chamber and instructed the Sergeant-at-Arms to close all doors leading from the Chamber.

At the conclusion of the Executive Session, the President called the Senate to order As In Legislative Session at 11:42 o'clock a.m. today.

The President asked if there were motions to sever nominees.

There were no motions offered.

Senator McKinnon moved confirmation of the nominees considered in Executive Session.

The nominees were confirmed by the following vote: Yeas 30, Nays 0.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Ogg.

NOMINEES CONFIRMED

Members, Texas Water Development Board: For a six-year term to expire December 31, 1979: Mr. Milton T. Potts of Livingston, Polk County is being reappointed; Mr. A. L. Black of Friona, Parmer County is replacing Mr. Marvin Shurbet of Petersburg whose term expired.

Members, Board of Regents of the University of Houston: For a six-year term to expire August 31, 1979: Mrs. Gus Wortham of Houston, Harris County is being reappointed; Mr. Aaron J. Farfel of Houston, Harris County is being reappointed; Mr. Mack H. Hannah, Jr. of Houston, Harris County is being reappointed.

Branch Pilots for the Sabine Bar, Pass and Tributaries: For a two-year term to expire December 3, 1976: Captain Aubrey Maxwell Castle, Jr. of Port Arthur, Jefferson County is being reappointed; Captain Leonard Selden Tibbetts of Port Neches, Jefferson County is being reappointed; Captain Joseph Michael Lupton of Nederland, Jefferson County is being appointed to a new position; Captain Mitchel Lavern Horne of Nederland, Jefferson County is being appointed to a new position.

For a two-year term to expire February 1, 1977: Mr. D. J. Bromley of Port Arthur, Jefferson County is being reappointed; Mr. J. W. Throgmorton of Port Arthur, Jefferson County is being reappointed.

Member, Gulf States Marine Fisheries Commission: For a three-year term to expire March 17, 1978: Mr. John A. Mehos of Galveston, Galveston County is being reappointed.

Members, Texas Board of Licensure for Nursing Home Administrators: For a six-year term to expire January 31, 1981: Mr. William A. Sheffield of Irving, Dallas County is replacing Mr. Carroll C. Curry of Itasca whose term expired; Dr. Wilfred G. Millington of Nixon, Gonzales County is being reappointed.

Members, Board of Directors of the Brazos River Authority: For a six-year term to expire February 1, 1981: Mr. Paul Clifton Boyd of Temple, Bell County is being reappointed; Mr. Alfred L. Brooks, Jr. of Bellville, Austin County is being reappointed; Mr. Hugh W. Dobbs of Hillsboro, Hill County is being reappointed; Mr. Charles G. Lee of Mineral Wells, Palo Pinto County is being reappointed; Mr. Milam Frank Thurmond, Jr. of Bryan, Brazos County is being reappointed; Mr. Sam Rowe of Alvin, Brazoria County is replacing Mr. Joe L. Tod of Freeport whose term expired; Mr. Bryan J. Williams of Post, Garza County is being reappointed.

For a six-year term to expire February 1, 1977: Dr. Arthur Ivan Davidson of Comanche, Comanche County is replacing Mr. Albert Brannan of Comanche who resigned.

Members, Lower Colorado River Authority: For a six-year term to expire January 1, 1981: Mr. Milton C. Dalchau of Llano, Llano County is being reappointed; Mr. John W. Hancock, Sr. of El Campo, Wharton County is being reappointed; Mr. Sam K. Seymour, Jr. of Columbus, Colorado County is being reappointed; Mr. Jake Strahan of Burnet, Burnet County is being reappointed.

COMMITTEE SUBSTITUTE SENATE BILL 761 ON SECOND READING

The President laid before the Senate as unfinished business C.S.S.B. 761.

Question - Shall C.S.S.B. 761 as amended be passed to engrossment?

The bill as amended was passed to engrossment.

RECORD OF VOTES

Senators Clower and Schwartz asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 761 ON THIRD READING

Senator McKnight moved that Senate Rule 68 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.B. 761 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Sherman, Snelson, Traeger and Williams.

Nays: Schwartz.

Absent-excused: Ogg.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and passed by the following vote: Yeas 28, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Sherman, Snelson, Traeger and Williams.

Nays: Clower and Schwartz.

Absent-excused: Ogg.

COMMITTEE SUBSTITUTE SENATE BILL 762 ON SECOND READING

On motion of Senator McKnight and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.B. 762, A bill to be entitled An Act relating to public mass transportation adding Article 6.07a, Title 122A, Taxation--General, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

The bill was read second time.

Senator McKnight offered the following amendment to the bill:

Amend **C.S.B. 762**, Section 5, page 5, by striking the second sentence beginning with "The public transportation fund" and substituting in lieu thereof the following:

"The Public Transportation Fund may only be used by the State Department of Highways and Public Transportation in carrying out the responsibilities and duties of the Commission and the Department for public transportation as established under State law."

The amendment was read and was adopted.

LEAVE OF ABSENCE

Senator Adams was granted leave of absence for the remainder of today on account of important business on motion of Senator Jones.

Senator Schwartz raised the Point of Order that **C.S.S.B. 762** could not be considered at this time because the General Appropriations Bill has not been passed.

The President ruled that **C.S.S.B. 762** does come under the provisions of Joint Rule 21, subsection (3), in that the effect of the bill is to transfer, divert or appropriate monies from one fund to another, and does not fall under any of the exceptions contained in Joint Rule 21. The effect of Joint Rule 21, however, is not to prevent consideration and passage of such a bill, but to prohibit the signing thereof until after passage of the General Appropriations Bill.

Under Joint Rule 21 and Senate Rule 50, the Point of Order was overruled.

Senator Aikin asked unanimous consent to postpone consideration of **C.S.S.B. 762** until after the passage of **S.B. 52**, the General Appropriation Bill.

There was objection.

Senator Aikin then moved to postpone consideration of **C.S.S.B. 762** until after the passage of **S.B. 52**.

The motion was lost by the following vote: Yeas 13, Nays 16.

Yeas: Aikin, Brooks, Clower, Doggett, Farabee, Harrington, Jones, Longoria, Patman, Santiesteban, Schwartz, Sherman and Snelson.

Nays: Andujar, Braecklein, Creighton, Gammage, Hance, Harris, Kothmann, Lombardino, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Traeger and Williams.

Absent-excused: Adams and Ogg.

Senator Clower offered the following amendment to the bill:

Amend **C.S.S.B. 762**, Sec. 2 (1) by inserting the word "planning," after "the" on line 42.

The amendment was read.

On motion of Senator Clower and by unanimous consent, the amendment was withdrawn.

Question - Shall **C.S.S.B. 762** as amended be passed to engrossment?

COMMITTEE SUBSTITUTE SENATE BILL 762 LAID ON TABLE SUBJECT TO CALL

Senator Mauzy moved that **C.S.S.B. 762** be Laid on Table Subject to Call.

The motion prevailed by the following vote: Yeas 15, Nays 14.

Yeas: Aikin, Andujar, Brooks, Clower, Doggett, Farabee, Harrington, Jones, Longoria, Mauzy, Patman, Santiesteban, Schwartz, Sherman and Snelson.

Nays: Braecklein, Creighton, Gammage, Hance, Harris, Kothmann, Lombardino, McKinnon, McKnight, Meier, Mengden, Moore, Traeger and Williams.

Absent-excused: Adams and Ogg.

MESSAGE FROM THE HOUSE

Hall of the House of Representatives
Austin, Texas, April 3, 1975

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 188, A bill to be entitled An Act relating to the appointment of heads of fire and police departments in cities with firemen's and policemen's civil service commissions; amending Subdivision (6), Subsection D, Section 14, Chapter 325, Acts of the 50th Legislature, 1947, as amended (Article 1269m, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 306, A bill to be entitled An Act relating to authority of commissioners court or governing body of an incorporated city, town, or village to alter maximum prima facie speed limits under certain conditions; adding Subsection (c) to Section 169, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes); and declaring an emergency.

H.B. 985, A bill to be entitled An Act relating to annexation to, detachment from, and levy, assessment, equalization, and collection of ad valorem taxes for, the Palo Duro River Authority; validating certain elections; amending Subsection (e) of Section 20, Subsection (a) of Section 23, Section 13, and Section 28 of and adding Subsections (d) and (e) of Section 13 and Section 2A to Chapter 438, Acts of the 63rd Legislature, Regular Session, 1973; and declaring an emergency.

H.B. 696, A bill to be entitled An Act relating to the authority of state-supported institutions of higher education to allow senior citizens to audit courses free of charge if space is available; amending Subchapter D, Chapter 54, Texas Education Code, by adding Section 54.210; and declaring an emergency.

S.B. 74, A bill to be entitled An Act making a supplemental appropriation to the Department of Labor and Standards; and declaring an emergency. (With amendments) Passed subject to Sec. 49A, Art. 3, Constitution of Texas by record vote 132 Ayes, 11 Nays.

Respectfully submitted,
DOROTHY HALLMAN
Chief Clerk, House of Representatives

SENATE BILL 29 ON SECOND READING

Senator Harrington asked unanimous consent to suspend the regular order of business and take up **S.B. 29** for consideration at this time.

There was objection.

Senator Harrington then moved to suspend the regular order of business and take up **S.B. 29** for consideration at this time.

The motion prevailed by the following vote: Yeas 23, Nays 6.

Yeas: Aikin, Andujar, Brooks, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, McKinnon, McKnight, Meier, Mengden, Moore, Santiesteban, Schwartz, Sherman, Traeger and Williams.

Nays: Braecklein, Clower, Creighton, Mauzy, Patman and Snelson.

Absent-excused: Adams and Ogg.

The President laid before the Senate on its second reading and passage to engrossment:

S.B. 29, A bill to be entitled An Act relating to the authority of the Parks and Wildlife Commission to authorize recreational hunting at Sea Rim State Park; amending Chapter 465, Acts of the 62nd Legislature, Regular Session, 1971 (Article 978f-5d, Vernon's Texas Penal Code) and declaring an emergency.

The bill was read second time and was passed to engrossment.

RECORD OF VOTES

Senators Clower, Braecklein, Snelson, Sherman, Patman, McKinnon, Creighton and Mauzy asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

MOTION TO PLACE SENATE BILL 29 ON THIRD READING

Senator Harrington moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 29** be placed on its third reading and final passage.

The motion was lost by the following vote (Not receiving four-fifths of the Members present): Yeas 21, Nays 8.

Yeas: Aikin, Andujar, Braecklein, Brooks, Doggett, Farabee, Gammage, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, McKnight, Meier, Mengden, Moore, Santiesteban, Schwartz, Traeger and Williams.

Nays: Clower, Creighton, Hance, Mauzy, McKinnon, Patman, Sherman and Snelson.

Absent-excused: Adams and Ogg.

SENATE BILL 924 ON SECOND READING

On motion of Senator Moore and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 924, A bill to be entitled An Act relating to standards for licensing nursing home administrators and grounds for revocation, suspension, and refusal to renew a license; amending Sections 6 and 11, Texas Nursing Home Administrators Licensure Act (Article 4442d, Vernon's Texas Civil Statutes); and declaring an emergency.

The bill was read second time and was passed to engrossment.

SENATE BILL 924 ON THIRD READING

Senator Moore moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 924** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Adams and Ogg.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Gammage, Hance, Harrington, Harris, Jones, Kothmann, Lombardino, Longoria, Mauzy, McKinnon, McKnight, Meier, Mengden, Moore, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger and Williams.

Absent-excused: Adams and Ogg.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Human Resources:

April 3, 1975

Honorable William P. Hobby
Lieutenant Governor
President of the Senate
Austin, Texas

Honorable Bill Clayton

Speaker of the House of Representatives
Austin, Texas

Honorable Members of the Legislature
Austin, Texas

Honorable Lt. Governor, Honorable Speaker and Honorable Members of the
Legislature:

Today I am submitting as an emergency matter the accompanying measure
under the provisions of Article III, Section 5, of the Constitution of the State of Texas.
I urge your prompt consideration and enactment of this measure.

Respectfully submitted,
DOLPH BRISCOE
Governor of Texas

Austin, Texas
April 3, 1975

**TO THE MEMBERS OF THE SIXTY-FOURTH LEGISLATURE, REGULAR
SESSION:**

Pursuant to the provisions of Section 5, Article III of the Constitution of the
State of Texas, I herewith submit as an emergency matter the following:

A bill relating to regulation of the planning, development, construction and
modification of certain health care facilities and services.

Recent passage by Congress and enactment by the President of the National
Health Planning and Resources Development Act of 1974 (P.L. 93-641), necessitates
that a state certificate of need program be instituted in Texas to regulate and supervise
health care services and health care facilities, generally.

Unless Texas is in compliance with P.L. 93-641 no citizen, program, or
institution located in this State will be eligible to receive funds appropriated under the
Public Health Services Act, the Community Mental Health Centers Act or the
Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and
Rehabilitation Act of 1970.

The question of whether Texas needs to regulate its health care industry has
been debated at length in many past legislative sessions. It is no longer at issue. The
Congress and the President have told us that Texas will regulate its health care industry
or Texas and its citizens will be greatly penalized economically; not penalized to a small
degree which would afford us the option of ignoring the federal mandate no matter how
good a program it might be, but a financial penalty of such magnitude that the State
could not reasonably stand the financial strain without taxing our already overburdened
citizens even more.

There is little disagreement among the members of the health care industry in
both the private and the public sector, that Texas must have a State certificate of need
program which will satisfy P.L. 93-641 by the time the 64th Legislature adjourns.

The program I have outlined is a fair one:

- (1) One that allows existing health care facilities sufficient time to remedy any
structural deficiencies they now have.
- (2) One which exempts facilities damaged or destroyed by fire, flood, or natural
disasters.
- (3) One which will protect existing hospitals and nursing homes from the
encroachment of unneeded facilities and the consequent financial jeopardy posed.

- (4) One which allows for local participation in the decision-making process.
- (5) One which avoids bureaucratic "redtape".
- (6) One which ensures procedural "due process" and allows for judicial review in a fair and equitable manner for all concerned.
- (7) One in which the decisions will be made in the open and one which ensures that the program and its administration will be responsive to the health care needs of our people.
- (8) One which avoids the danger of being controlled by one segment of the health-care industry to the detriment of another.
- (9) One that will ensure that Texas and its citizens will be eligible for federal funds.
- (10) One which is citizen-controlled.
- (11) One which will afford a great deal of protection to the local hospitals, especially those that provide substantial services to the indigent.

The only question to be determined is what State agency will be given the responsibility and authority to administer a State certificate of need program and administer P.L. 93-641. The creation of a State certificate of need program clearly requires legislative action. I am submitting my comments and opinions regarding how I believe such a program should be established and I stand ready to work with each of you towards the adoption of an acceptable certificate of need program. The designation of the State agency to administer and implement P.L. 93-641 is the prerogative of the Governor as detailed by federal law, and I sincerely hope and trust that you will honor my decision and work with me in this regard, for by this emergency message I am exercising that responsibility.

After a great deal of review, study, and consultation, it is my firm opinion that the people of Texas would be much better served by selectively combining and consolidating divisions of my office, divisions of existing agencies, and drawing on the manpower resources of existing programs and groups to compose a State agency separate and apart from my office and from other existing agencies to administer the State certificate of need program and to implement P.L. 93-641.

Such an agency, The Texas Health Resources Commission, would be exclusively planning and regulatory in nature and would have no authority to issue licenses for health care facilities. It would be able to draw freely on the data resources of our existing agencies and hopefully would be able to facilitate and coordinate the activities of the various other related agencies. There are many reasons why this is the best approach and as I said earlier, this decision was not made lightly and I hope that you will treat this message in the light in which it is intended.

I urge your prompt and speedy attention to this matter as I sincerely believe it to be in the best interest of the citizens of our State.

Respectfully submitted,
DOLPH BRISCOE
Governor of Texas

SENATE BILL ON FIRST READING

The following bill submitted by the Governor as an emergency was introduced, read first time and referred to the Committee indicated:

By Senators Gammage, Brooks, Schwartz and Traeger:

S.B. 1024, A bill to be entitled An Act relating to regulation of the planning, development, construction, modification, and expansion of certain health-care facilities and services; providing conforming amendments and repeals; and declaring an emergency.

To Committee on Human Resources.

NOTICES OF INTENT

The following Notices of Intent were filed with the Secretary of the Senate:

Monday, April 7, 1975

C.S.S.C.R. 31 - Senator Andujar
S.B. 29 - Senator Harrington (Third reading)
C.S.S.B. 69 - Senator Moore
C.S.S.B. 109 - Senator Mauzy
C.S.S.B. 110 - Senator Mauzy
S.B. 126 - Senator Meier
S.B. 131 - Senator Meier
S.B. 179 - Senator Harrington
S.B. 180 - Senator Gammage
S.B. 193 - Senator Snelson
S.B. 228 - Senator Moore
S.B. 233 - Senator Meier
S.B. 247 - Senator Farabee
C.S.S.B. 250 - Senator Mauzy
S.B. 257 - Senator Mauzy
C.S.S.B. 262 - Senator Doggett
C.S.S.B. 270 - Senator Doggett
S.B. 302 - Senator Creighton
S.B. 309 - Senator Snelson
C.S.S.B. 319 - Senator Patman
C.S.S.B. 348 - Senator Braecklein
C.S.S.B. 397 - Senator Doggett
S.B. 405 - Senator Sherman
C.S.S.B. 415 - Senator Andujar
S.B. 459 - Senator Sherman
S.B. 469 - Senator Meier
S.B. 486 - Senator Creighton
S.B. 490 - Senator Jones
S.B. 520 - Senator Mauzy
S.B. 525 - Senator Brooks
S.B. 527 - Senator Harrington
S.B. 529 - Senator Traeger
S.B. 544 - Senator Farabee
S.B. 545 - Senator Farabee
S.B. 595 - Senator Jones
S.B. 604 - Senator Creighton
S.B. 718 - Senator Aikin
S.B. 752 - Senator Williams
S.B. 756 - Senator Creighton
S.B. 789 - Senator Moore
S.B. 834 - Senator Moore
S.B. 845 - Senator Hance
S.B. 986 - Senator Moore